

**ORDINANCE NO. 04:02-15**  
**AN ORDINANCE AMENDING THE CITY CODE AS IT RELATES TO**  
**PRIVATE WASTEWATER TREATMENT**  
**FOR THE CITY OF EAST GULL LAKE**  
**COUNTY OF CASS, STATE OF MINNESOTA**

The City of East Gull Lake Ordains:

Section 1. **Purpose and Intent.** The purpose and intent of this Ordinance is to amend the City of East Gull Lake City Code as it relates to private wastewater treatment within the City.

Section 2. **Amendments.** This ordinance will amend Section 3.2-5 of the East Gull Lake City Code as follows:

**1. PURPOSE AND AUTHORITY**

The purpose of the Subsurface Sewage Treatment System (SSTS) Ordinance is to provide minimum standards for and regulation of Individual Sewage Treatment Systems (ISTS) and Midsized Sewage Treatment Systems (MSTS) including the proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the City of East Gull Lake Comprehensive Plan and the City of East Gull Lake Land Use Ordinance.

**2. INTENT**

**It is intended by City of East Gull Lake that this Ordinance will promote the following:**

- A.** The protection of lakes, rivers and streams, wetlands, and groundwater in City of East Gull Lake essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the City.
- B.** The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
- C.** The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
- D.** The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.

**3. JURISDICTION**

The jurisdiction of this Ordinance shall include all lands of East Gull Lake

**4. EFFECTIVE DATE**

The provisions set forth in this Ordinance shall become effective on May 1, 2015.

## 5. SCOPE

This Ordinance regulates the siting, design, installation, inspection, alterations, operation, maintenance, monitoring, and management of all SSTS within East Gull lakes applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of East Gull Lake shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.

## 6. DEFINITIONS

The following words and phrases shall have the meanings ascribed to them in this Article. If not specifically defined in this Article, terms used in this Ordinance shall have the same meaning as provided in the standards adopted by reference. Words or phrases that are not defined here or in the standards adopted by reference shall have common usage meaning. For purposes of this Ordinance, the words “must” and “shall” are mandatory and the words “may” and “should” are permissive.

**Authorized Representative:** An employee or agent of the City.

**Board of Adjustment:** A board established by city ordinance with the authority to order the issuance of variances, hear and decide appeals from a member of the affected public and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of Minnesota Statutes, sections 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls.

**Class V Injection Well:** A shallow well used to place a variety of fluids directly below the land surface, which includes a domestic SSTS serving more than 20 people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).

**Cluster System:** A SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings.

**Design Flow:** The daily volume of wastewater for which an SSTS is designed to treat and discharge.

**Failure to Protect Groundwater:** At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Section 5 hereof.

**Imminent Threat to Public Health and Safety:** At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The

determination of protectiveness for other conditions must be made by a Qualified Employee or a SSTS inspection business licensed pursuant to Section 5 hereof.

**ISTS:** An individual sewage treatment system having a design flow of no more than 5,000 gallons per day.

**Industrial Waste:** Sewage containing waste from activities other than sanitary waste from industrial activities including, but not limited to, the following uses defined under the Standard Industrial Classification (SIC) Codes established by the U.S. Office of Management and Budget.

SIC CODE(S)	INDUSTRY CATEGORY
753-7549	Automotive Repairs and Services
7231,7241	Beauty Shops, Barber Shops
7211-7219	Laundry Cleaning and Garment Services
4011-4581	Transportation (Maintenance only)
8062-8069	Hospitals
2000-3999	Manufacturing
2000-2099	Food Products
2100-2199	Tobacco Products
2400-2499	Lumber and Wood Products, except Furniture
2500-2599	Furniture and Fixtures
2600-2699	Paper and Allied Products
2700-2799	Printing, Publishing, and Allied Industries
2800-2899	Chemicals and Allied Products
2900-2999	Petroleum Refining and Related Industries
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3200-3299	Stone, Clay, Glass, and Concrete Products
3300-3399	Primary Metal Industries
3400-3499	Fabricated Metal Products (except Machinery, and Transportation Equipment
3500-3599	Industrial and Commercial Machinery and Computer Equipment
3700-3799	Transportation Equipment
3800-3899	Measuring, Analyzing, and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks
3900-3999	Miscellaneous Manufacturing Industries

**Malfunction:** The partial or complete loss of function of a SSTS component, which requires a corrective action to restore its intended function.

**Management Plan:** A plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.

**Minor Repair:** The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS.

**MSTS:** A “mid-sized subsurface sewage treatment system” under single ownership that receives sewage from dwellings or other establishments having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.

**Notice of Noncompliance:** A written document issued by the Department notifying a system owner that the owner’s onsite/cluster treatment system has been observed to be noncompliant with the requirements of this Ordinance.

**MPCA:** Minnesota Pollution Control Agency.

**Qualified Employee:** An employee of the state or a local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual’s employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.

**Record Drawings:** A set of drawings which to the fullest extent possible document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system.

**Sewage:** Waste from toilets, bathing, laundry, or culinary activities or operations or floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.

**SSTS:** Subsurface sewage treatment system Including an ISTS, MSTS or LSTS.

**State:** The State of Minnesota.

**Treatment Level:** Treatment system performance levels defined in Minnesota Rules, Chapter 7083.4030, Table III for testing of proprietary treatment products, which include the following:

Level A:  $\text{cBOD}_5 \leq 15 \text{ mg/L}$ ;  $\text{TSS} \leq 15 \text{ mg/L}$ ; fecal coliforms  $\leq 1,000/100 \text{ mL}$ .

Level B:  $\text{cBOD}_5 \leq 25 \text{ mg/L}$ ;  $\text{TSS} \leq 30 \text{ mg/L}$ ; fecal coliforms  $\leq 10,000/100 \text{ mL}$ .

Level C:  $\text{cBOD}_5 \leq 125 \text{ mg/L}$ ;  $\text{TSS} \leq 80 \text{ mg/L}$ ; fecal coliforms N/A.

**Type I System:** An ISTS that follows a standard trench, bed, at-grade, mound, or graywater system design in accordance with MPCA rules, Minnesota Rules, Chapter 7080.2200 through 7080.2240.

**Type II System:** An ISTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots with rapidly permeable soils or lots in floodplains and privies or holding tanks.

**Type III System:** A custom designed ISTS having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

**Type IV System:** An ISTS, having an approved pretreatment device and incorporating pressure distribution and dosing, that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.

**Type V System:** An ISTS, which is a custom engineered design to accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and other relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented.

**7. ABROGATION AND GREATER RESTRICTIONS**

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

**8. INTERPRETATION**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

**9. SEVERABILITY**

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this Ordinance shall not be affected and shall remain in full force.

**10. REPEALOR**

The adoption of this Ordinance repeals Section 3.2-5(1) of the East Gull Lake City code.

**11. CITY ADMINISTRATION**

- A. The City of East Gull Lake shall administer the SSTS program and all provisions of this ordinance.
- B. The Cities duties and responsibilities include, but are not be limited to, the following;
  - 1. Review all applications for SSTS
  - 2. Issue all permits required in this Ordinance
  - 3. Inspect all work regulated in this Ordinance
  - 4. Investigate all complaints regarding SSTS
  - 5. Issue certificates of installation, certificates of compliance or notices of noncompliance where applicable
  - 6. Enact enforcement provisions of this Ordinance as necessary
  - 7. Refer unresolved violations of this Ordinance to the City Attorney
  - 8. Maintain current records for each permitted SSTS including all site evaluation documents, design documents, inspection documents, and other applicable documents.
  - 9. The City shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program
  - 10. Submit annual reports to MPCA as required

**12. LIABILITY**

The Cities involvement in administration of this Ordinance does not create a special duty to any person and, further liability or responsibility shall not be imposed upon the City or any of its officials, employees, or other contract agents, for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster SSTS regulated under this Ordinance or by reason of any standards, requirements, or inspections authorized by this Ordinance hereunder.

**13. ALL SSTS**

Except as explicitly set forth in Section 207, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

**14. EXISTING PERMITS**

Unexpired permits which were issued prior to the effective date of this Ordinance shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system design, whichever is earlier.

**15. SSTS ON LOTS CREATED AFTER JANUARY 23, 1996**

All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support Type 1 systems as defined by Minnesota Rule 7080.2200.

**16. UPGRADE, REPAIR, REPLACEMENT AND ABANDONMENT**

**A. SSTS Capacity Expansions**

Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.

**B. Bedroom Addition**

Any addition to a structure that includes bedroom(s) that require a land use permit from the City shall require that the SSTS meet the required design flow according to Minnesota Rule 7080.1860 or be upgraded to meet Class 1 sizing for both the septic tanks and soil absorption area. Any required upgrades shall be completed within two years.

**C. Failure to Protect Groundwater**

An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rule 7080.1500, Subp.4(B) shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten months upon receipt of a notice of noncompliance and must meet Class I sizing requirements according to Minnesota Rule 7080.1860.

**D. Imminent Threat to Public Health or Safety**

An SSTS posing an imminent threat to public health or safety shall be pumped within twenty four hours and managed as a holding tank in accordance with Minnesota Rule 7080.1500, Subp.4(A) and said SSTS shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten months upon receipt of a notice of noncompliance and must meet Class I sizing requirements according to Minnesota Rule 7080.1860.

**E. Abandonment**

Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rule 7080.2500.

**17. SSTS IN FLOODPLAINS**

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rule 7080.2270 and all relevant local requirements are met.

**18. CLASS V INJECTION WELLS**

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, Title 40, Part 144, are required by the Federal Government to submit a UIC Class 5 Inventory Form to the Environmental Protection Agency as described in 40 CFR Part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

**19. SSTS PRACTITIONER LICENSING**

- A.** No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules Chapter 7083 except as exempted in Rule 7083.0700.
- B.** An MPCA license is not required of an individual who is constructing a SSTS on land that is owned by the individual and functions solely as a dwelling for that individual pursuant to Minnesota Rule 7083.0700. Installation of the system shall be based upon a design by a licensed designer. The system shall be inspected before it is covered and a twenty four hour notification to the City for inspection is required.
- C.** Commercial SSTS and any other pressurized system cannot be constructed by anyone other than a licensed installer.

**20. PROHIBITIONS**

**A. Occupancy or Use of a Building without a Compliant SSTS**

It is unlawful for any person to maintain, occupy, or use any building intended for habitation or that contains plumbing fixtures that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Ordinance.

**B. Sewage Discharge to Ground Surface or Surface Water**

It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

**C. Sewage Discharge to a Well or Boring**

It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rule 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.

**D. Discharge of Hazardous or Deleterious Materials**

It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

**21. LOCAL STANDARDS ADOPTED BY REFERENCE**

**A. Adoption of Rule by Reference**

- 1. The City hereby adopts by reference the provisions of Minnesota Rules Chapters 7080 - 7083 in their entirety.
- 2. All new construction or replacement of SSTS shall employ sewage tanks, distribution media and treatment products which have been registered by the Minnesota Pollution Control Agency as per Minnesota Rule Chapter 7080.2150 Subp.3(A)

**22. DIFFERENCES IN STANDARDS**

**A. List of Different Adopted Standards**

1. To determine bottom absorption area and absorption ratios, soil description or percolation test, may be used.
2. At least one cleanout at or above finished grade shall be installed between the structure and the septic tank with additional clean outs at intervals not more than one hundred feet.
3. Class I sizing is required on all new construction. New construction will be defined as placement of a new structure or replacement structure that is served by pressurized water
4. All tank sizing shall follow Minnesota Rule 7080.1930
5. Pump tank sizing shall follow Minnesota Rule 7080.2100
6. Soil pits shall be required during the construction inspection. The soil pit shall be excavated at the time of the inspection. The soil pit shall be dug by a backhoe or other acceptable method and be excavated to a depth that will allow the verification of redoximorphic features and the three feet of vertical separation as required. Location of soil pits shall be adjacent to the lowest trench or next to the down slope side of an elevated treatment area. The pit shall not impact the hydraulic performance of the ISTS. A certificate of installation will not be issued until the soils are verified
7. All dwellings shall meet the required setbacks to the septic tank and soil absorption area. Accessory structures, including but not limited to, decks, screen decks, porches, sheds, garages and pole buildings shall not be required to meet said setbacks provided that the tank(s) can be maintained properly and that the structure does not negatively impact the function of the system
8. Vaulted privies must have a watertight registered storage tank of at least fifty five gallon capacity

**23. COMPLIANCE CRITERIA FOR EXISTING SSTS**

For an SSTS built before April 1, 1996, and outside of areas designated as “SWF”, (systems in shoreland areas, wellhead protection areas, or systems serving food, beverage, or lodging establishments), there must be at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

**24. HOLDING TANKS**

Holding tanks may be allowed for the following applications: as replacements for existing failing SSTS and SSTS that pose an imminent threat to public health or safety, on lots with limitations that will not allow for the installation of a Type 1 SSTS or for uses that are seasonal or intermittent in nature. Holding tanks shall require an operating permit.

**25. VARIANCE REQUESTS**

The City does not allow or grant variances from Minnesota rule 7080-7083.

**26. STATE AGENCY VARIANCE REQUESTS**

Variances that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State Agency. No permits will be issued by the City until all required State Agency variances have been approved.

27. **PERMIT REQUIREMENTS**

**A. Activities Not Requiring a Land Use Permit**

A land use permit is not required for minor repairs or replacements of system components that do not alter the original function of the system; change the treatment capacity of the system; change the location of the system; or otherwise change the original system design, layout, or function. Examples are, but not limited to, pumps, baffles, and effluent screens or filters.

**B. Activities Requiring a Land Use Permit**

A land use permit shall be obtained by the property owner or an agent of the property owner from the City prior to the installation, construction, replacement, modification, alteration, or capacity expansion of a SSTS. It is unlawful for any person to construct, install, modify or replace a SSTS without the appropriate permit from the City including repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

**C. Permit Requirements**

Land Use Permit applications shall be made on forms provided by the City and signed by the applicant or applicant's agent, and must include the following information and documentation:

1. Applicant name, mailing address, telephone number, and email address
2. Property Identification Number, property address and legal description of property location
3. Site Evaluation Report, as described in Minnesota Rules Chapter 7080.1730, shall be made on one that is acceptable to the City
4. Design Report, as described in Minnesota Rules Chapter 7080.2430, and shall be made on a form that is acceptable to the City

**D. 5. A maintenance management plan, as described in Minnesota Rule 7082.0600,**

**Application Review and Response**

The City shall review a permit application and supporting documents according to the East Gull Lake Land Use Ordinance and East Gull Lake SSTS ordinance.

**E. Appeal**

The applicant may appeal any decision of the City in accordance with East Gull Lake Land Use Ordinance.

**F. Permit Expiration**

A Land Use Permit for a new SSTS is valid for a period of no more than two years from its date of issue. A Land Use Permit for the replacement of SSTS failing to protect groundwater is valid for ten months. A Land Use Permit for the replacement of SSTS that are imminent threats to public health is valid for ten months. Satisfactory completion of construction shall be determined by as-built drawings and a signed certification that the construction and installation of the system was completed in reasonable conformance with the approved design documents by a qualified employee of the City or a licensed inspection business, which is authorized by the City and independent of the owner and the SSTS installer.

**G. Transferability**

A Land Use Permit may be transferred to a new owner provided there are no proposed changes to the SSTS design.

## **H. Suspension or Revocation**

The City may suspend or revoke a Land Use Permit issued under this section for any false statements, misrepresentations of facts on which the Land Use Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Land Use Permit is obtained.

## **I. SSTS Assessment Requirements**

For those SSTS without a management plan or operating permit according to the provisions of this Ordinance, the following provisions apply:

1. The owner of an ISTS or the owner's agent shall regularly, but in no case less frequently than every three years, assess whether sewage tanks leak below the designed operating depth and whether sewage tank tops, riser joints, and riser connections leak through visual evidence of major defects and measure or remove the accumulations of scum, grease, and other floating materials at the top of each septic tank and compartment, along with the sludge, which consists of the solids denser than water
2. All solids and liquids must be removed by pumping from all tanks or compartments in which the top of the sludge layer is less than twelve inches from the bottom of the outlet baffle or transfer hole or whenever the bottom of the scum layer is less than three inches above the bottom of the outlet baffle or transfer hole. Total sludge and scum volume must not be greater than 25% percent of the tank's liquid capacity. Removal of accumulated sludge, scum, and liquids from septic tanks and pump tanks must be through the maintenance hole. The removal of solids from any location other than the maintenance hole is not a compliant method of solids removal from a sewage tank, and this method does not fulfill the solids removal requirement of this part or a management plan. Liquid and solids removal from clean-out pipes is allowed for holding tanks

## **28. OPERATING PERMIT**

- A. An Operating Permit shall be required for the following SSTS:
  1. SSTS with high strength waste effluent standards that exceed Minnesota Rule 7080.2150, Subp.3(K)
  2. Holding Tanks
  3. SSTS serving three or more connections
  4. Type III, Type IV and Type V SSTS
  5. SSTS that exceed a daily flow of 2,500 gallons per day; or
  6. MSTs designed under Minnesota Rules Chapter 7081
- B. Operating Permits shall be a signed agreement between the City and the property owner and shall include monitoring, performance, mitigation, and reporting requirements.
- C. A valid Operating Permit shall be considered a certificate of compliance if that system is in compliance with the requirements of the Operating Permit.
- D. Owners of holding tanks and vaulted privies shall provide the City with a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner and prevents an illegal discharge in accordance with Minnesota Rule 7082.0100, Subd.3(G). This

requirement is waived if the owner is a farmer who is exempt from licensing under Minn. Stat., § 115.56, Subd.3(b)(3).

- E. Operating Permits shall be valid for the specific term stated on the permit as determined by the City.
- F. An Operating Permit must be renewed prior to its expiration. If not renewed, the City may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within ninety calendar days of the expiration date, the City may require that the system be abandoned in accordance with Section 300 (E).
- G. Operating Permits do not transfer to new property owners. New owners shall apply for an Operating Permit in accordance with Section 1005. The City shall not terminate the current permit until ninety calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the City may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.
- H. A report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the City on a form acceptable to the City on or before the compliance reporting date stipulated in the Operating Permit as required. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described in the Operating Permit.
- I. The City may suspend or revoke any Operating Permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.
- J. If suspended or revoked, the City may require that the treatment system be removed from service, operated as a holding tank, or abandoned.
- K. At the Cities sole discretion, the Operating Permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

## **29. COMPLIANCE INSPECTION PROGRAM**

### **A. City Responsibility**

It is the responsibility of the City, or its agent, to perform installation inspections of new SSTS or upgrades of SSTS to assure that the requirements of this Ordinance are met.

1. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors
2. The City shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building
3. No person shall hinder or otherwise interfere with the Cities employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the City shall be deemed a separate and distinct offense
4. A signed winter agreement, as per Section 303 D of the East Gull Lake Land Use Ordinance, may be accepted in lieu of a compliance inspection for property transfers, between November 1 and April 30, provided the required information is submitted to the City by June 1 of the subsequent year. Failure to fulfill all of the obligations of the winter agreement shall be a violation of this Ordinance

## **B. New Construction or Replacement**

- 1.** New installation inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081, respectively, according to this section. SSTS found to be noncompliant with other applicable requirements must be repaired or replaced according to the Cities requirements
- 2.** It is the responsibility of the SSTS owner or the owner's agent to notify the City twenty four hours prior to the installation inspection
- 3.** If the installer provides proper notice and the City does not provide an inspection within one hour after an inspection time was set, the installer may complete the construction per the following: The installer shall submit photographs of the entire uncovered system and an as-built drawing with a certified statement that the installation of the SSTS met the appropriate standards of this Ordinance within five working days of the installation
- 4.** A Certificate of Installation for new SSTS construction or replacement shall be issued by the City within thirty days of inspection if the City has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit
- 5.** The Certificate of Installation must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply
- 6.** No SSTS shall be placed into operation until a valid Certificate of Installation has been issued
- 7.** Certificates of Installation for new construction or replacement shall remain valid for five years from the date of issue unless the City finds evidence of noncompliance

## **C. Existing Systems**

- 1.** Compliance inspections shall be required when any of the following conditions occur
  - a.** When applying for a land use permit, shoreline alteration permit, minor subdivision, plat, land use reclassification, conditional use permit or variance and the Certificate of Installation is more than five years old or the Certificate of Compliance is more than three years old.
  - b.** Prior to conveyance of any real property and the Certificate of Installation is more than five years old or the Certificate of Compliance is more than three years old.
  - c.** Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system.
  - d.** At any time as required by this Ordinance or the City deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
- 2.** Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified
  - a.** Watertightness assessment of all treatment tanks including a leakage report.
  - b.** Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including vertical soils separation verification report unless soils have been verified according to Minnesota Rule 7082.0700, Subp.4(B).



Certificate of Compliance on forms approved by the City (certificate), or (C) a packet consisting of the following documents to be referred to as an escrow packet: 1) an escrow agreement as provided by subdivision “3” of this section, 2) an attached written estimate or contract to install a complying SSTS provided by a licensed and certified installer; and, 3) an attached SSTS permit application for the installation of the SSTS (packet), or (D) an SSTS permit application and SSTS Compliance Inspection Agreement for conveyances which take place between November 1st and April 30th when compliance cannot be determined (winter agreement). Failure to comply with a requirement of this subdivision does not impair the validity of the deed. Failure to present to the City an affidavit, certificate of compliance, escrow packet, or a winter agreement as outlined in this subdivision shall constitute a misdemeanor and shall be punishable as defined by Minnesota State Statutes.

5. Liability for Failure to Disclose: Unless the buyer and seller agree to the contrary in writing before the closing of the sale, a seller who fails to disclose the existence of a subsurface sewage treatment system at the time of sale and knew or had reason to know of the existence of a subsurface sewage treatment system is liable to the buyer for costs relating to bringing the subsurface sewage treatment system into compliance with the East Gull Lake Subsurface Sewage Treatment System Ordinance, and reasonable attorney’s fees for collection of costs from the seller, if the action is commenced within two (2) years after the date the buyer closed the purchase of the real property where the subsurface sewage treatment system is located. Said civil liability shall in no way impair a criminal prosecution for the same violation.

6. In accordance with section 4(D) above, all property conveyances subject to this ordinance occurring during the period between November 1st and April 30th when ISTS compliance cannot be determined due to frozen soil conditions shall require a winter agreement, which includes an application for an SSTS permit and an SSTS Compliance Inspection Agreement. The compliance inspection shall be completed by following June 1st by a state-licensed compliance inspector. If upon inspection the SSTS is found to be in compliance, the permit fee will be refunded. If upon inspection the system is found to be failed, an escrow agreement shall be established in accordance with section 3, above, and the system shall be upgraded.

#### **E. Commercial SSTS**

1. Septic tank effluent testing for Carbonaceous Biochemical Oxygen Demand (CBOD), Biological Oxygen Demand (BOD), Total Suspended Solids (TSS), and oil/grease combination is mandatory for all SSTS that serve commercial establishments that serve food and beverages or have a flow that exceeds 1000 gallons per day as part of any compliance inspection.
2. Effluent testing shall not be required for commercial SSTS that have a current operating permit as of the date this Ordinance is effective. If all provisions of the operating permit are met, the SSTS shall be considered to be in compliance.
3. An SSTS with effluent testing that does not meet the standards in the Minnesota Rule 7080.2150, Subp.3(K) shall be upgraded within three years to meet said standards and be placed on an Operating Permit as provided in this Ordinance.

#### **F. Vertical Separation Reduction**

Minnesota Rule 7080.1500, Subp. 4(D) is hereby adopted allowing a 15% reduction in vertical separation distance for settling of sand or soil, normal variation of measurements and

interpretations of the limiting layer for existing SSTS. This provision does not apply to Section 1000.

**30. ENFORCEMENT**

Enforcement of this Ordinance shall follow the standards in Section XI of the East Gull Lake Land Use Ordinance.

**31. STATE NOTIFICATION OF VIOLATION**

The City shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed maintainer that is performed in violation of the provisions of this Ordinance. The City shall also notify the MPCA of any discovered straight pipes pursuant to Minnesota Statute 115.55 Subdivision 11.

**32. RECORD KEEPING**

The City shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, Certificates of Compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, Operating Permits, an annual list of all sewage tanks installed in the City sorted by licensed installation businesses, and other records the City deems relevant to a particular system.

**33. ANNUAL REPORT**

The City shall provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.

**34. FEES**

From time to time, the City Council shall establish fees for activities undertaken by the City pursuant to this Ordinance. Fees shall be due and payable at a time and in a manner to be determined by the City.

**35. DISPUTE RESOLUTION**

Resolution of disputes between SSTS Certified Individuals regarding conflicting compliance inspections, determination of seasonally saturation of soils and other technical issues shall follow Minnesota Rule 7082.0700, Subp. 5.

**APPENDIX A**

**SEPTAGE MANAGEMENT**

All septage disposal sites shall be preapproved by the City.

**Separation Requirements For Land Application Of Septage** - Domestic septage disposal and treatment standards shall comply with U.S. Environmental Protection Agency rules as found in 40 CFR Part 503 entitled "Standards for the Use or Disposal of Sewage Sludge," and Minnesota Pollution Control Agency guidelines as stated in " Land Application of Septage. "

**A.** The land spreading site shall be located such that the following minimum separation distances are maintained:

- |   |           |
|---|-----------|
| 1. Private water wells  | 200 feet  |
| 2. Municipal well   | 1000 feet |
| 3. Occupied residential structure                                     | 600 feet* |
| 4. Residential Districts, Commercial Developments, Recreational areas | 600 feet  |
| 5. Property lines   | 50 feet   |
| 6. Public Road Right-of-Ways  | 50 feet   |
| 7. OHW of Protected Water   | 200 feet  |

**B.** Separation distances from protected waters, wetlands, intermittent streams, and agricultural drainage ditches shall be observed as follows:

<u>SITE SLOPE</u>	<u>SEPARATION DISTANCES FROM PROTECTED WATERS</u>	
May-Oct Nov-April		
0-2%	200 ft.	600 ft.
2-6%	400 ft.*	not
allowed		
6-12%	600 ft.**	not
allowed		

**ALL OF THE ABOVE SETBACKS MUST BE DOUBLED IF THE SITE DRAINS TO THE PROTECTED WATER**

<u>SITE SLOPE</u>	<u>SEPARATION DISTANCES FROM ALL OTHER UNCLASSIFIED WATERS</u>	
May-Oct Nov-April		
0-2%	200 ft.*	600 ft.
2-6%	400 ft.*	not
allowed		
6-12%	300 ft.**	not
allowed		

\*--Separation distances may be reduced by 50% if septage is injected.

\*\*-- Land Spreading not allowed without injection.

Surface application of septage on frozen soil is prohibited unless slopes are 2% or less.

**Land Suitability For Land Application Of Septage**

**A. Soil Suitability** - To be suitable for land spreading, the soil must meet the following criteria:

1. Have medium or fine surface textures (no sandy or peaty surface textures).
2. Have a 3 foot vertical separation distance as outlines in chapter 7080.0110.
3. Have 6 inches of available water holding capacity between the application depth and redoxomorphic features.
4. Have at least 1 horizon in the upper 5 feet that has a permeability of less than 6 inches per hour.
5. Have surface permeabilities slower than 20 inches/hour or faster than 0.2 inch/hour.
6. Have a slope of 12% or less.

**B. Physical Criteria**

1. Septage must not be spread where a monitor well or designated monitor well exceeds 10 ppm nitrate count.
2. Septage shall be land spread on cropland in such quantity so as not to exceed the agronomic rates as approved by the Agency and City.
3. Septage shall be spread evenly across an approved land spreading site and not concentrated.
4. Septage land spreading sites must not be used for growth of crops, which will be consumed directly by humans for three years after the last septage application. The grazing or harvesting of foraged materials on septage land spreading sites must not occur for at least three weeks after the last spreading date.
5. Septage shall be incorporated as necessary to prevent nuisance conditions and excessive accumulation of septage solids on the soil surfaces.
6. In order to comply with the requirements for pathogen reduction and vector attraction reduction, the pH of septage to be land applied shall be raised and held at 12 or more for a minimum of 30 minutes. All other methods of pathogen reduction and vector attraction reduction methods must be approved in writing by the City prior to land application.

**C. Daily Liquid Loading Limits**

<u>Soil Texture</u>	<u>Gallons/Acres/Day</u>
Coarse	25,000
Medium	15,000
Fine	10,000

**D. Annual Nitrogen Application for Non-Cropped and Non-Harvested Land**

<u>Soil texture</u>	<u>Ibs. per acre</u>	<u>Surface applied</u>
<u>Nitrogen</u>	<u>Gal/acre/Year</u>	
1. High Density Vegetative cover -50% cover		
Coarse	75	34,000
Medium	100	49,000
Fine	125	65,000
2. Low Density Vegetative Cover- 25-50% Cover		
Coarse 50	25,000	
Medium	75	34,000

Fine	100	49,000
3. Fallow Land - 25 % Cover		
Coarse	0	0
Medium	50	25,000
Fine	75	34,000

**Additional General Requirements**

- A. Pumpers shall obtain approval from the owner of the land area used for septage disposable.
- B. Disposal of septage must meet all applicable federal, state, county or local zoning regulations.
- C. Disposal of septage within incorporated cities requires prior written approval from the city.
  - 1. Alternative Disposal-Any alternative disposal of septage must meet the applicable standards of the City and the Agency. Any alternative disposal requires written approval from the City prior to the disposal.

Section 3. **Repeal.** This ordinance shall supersede and repeal all ordinances or policies inconsistent herewith.

Section 4. **Effective Date.** This ordinance shall become effective upon its passage and publication as provided by law.

Passed by the City Council of the City of East Gull Lake, Minnesota this 7<sup>th</sup> day of April 2014, by a \_\_\_/5<sup>th</sup> of the Council.

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Dave Kavanaugh, Mayor  
City of East Gull Lake

Attest:

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Rob Mason, City Administrator  
City of East Gull Lake